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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,638	07/01/2003	Daniel J. Gersten		3674

7590 11/16/2004

Jack C. Munro  
Agent of Record  
Suite 225  
28720 Roadside Drive  
Agoura Hills, CA 91301

EXAMINER

MILLER, WILLIAM L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/612,638

**Applicant(s)**

GERSTEN, DANIEL J.

**Examiner**

William L. Miller

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 5 is objected to because of the following informalities: line 4, delete first recitation of "a"; line 5, change "a" to --said-- and change "that it" to --and--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gersten (US#6295705) in view of Biggar (US#6421890).

4. Regarding claim 1, Gersten discloses a burial urn for a plurality of cremated remains comprising: a housing 10 having an internal chamber 18 which is closed except for the top 26 which is open at 24, said housing having a polygonal exterior surface divided into a series of separate panels 12, each said panel having mounted thereon a name plaque 16 with their being a plurality of name plaques on said housing; a plurality of cremated remains being removably located within said internal chamber, there being an equal number of plurality of cremated remains to the number of said name plaques; and a housing cover 34 closing said internal chamber, said housing cover engaging with said top, said housing cover being removable to gain access to said plurality of cremated remains.

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5. Gersten fails to disclose a plurality of containers each having an internal compartment into which the remains are stored and a separate container lid for each container. Biggar discloses a similar urn assembly including a housing 11 having an open top 13 providing access to an internal chamber 14 for receiving a plurality of containers 15. Each container has an internal compartment into which the remains are stored and a separate container lid 38. The separate containers thereby provide isolation of each of the plurality of cremated remains stored in the urn. Therefore, as taught by Biggar, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gersten to include plurality of containers each having an internal compartment into which the remains are stored and a separate container lid for each container thereby isolating isolation each of the plurality of cremated remains stored in the urn.

6. Regarding claim 2, Gersten fails to disclose the internal chamber being circular in transverse cross-section. However, the transverse cross-sectional shape of the internal chamber is not a critical feature of the invention, and as admitted by the applicant, "It is considered to be within the scope of this invention that the internal chamber 20 could be other than circular, it just being that circular is the preferable shape." Therefore, it would have been an obvious design choice to utilize an internal chamber being circular in transverse cross-section as a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Further, it is known to utilize an internal chamber being circular in transverse cross-section as evidenced by Biggar in Fig. 1.

7. Regarding claim 3, Gersten discloses all of the panels are of the same size.

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8. Regarding claim 4, Gersten, as modified by Biggar, discloses the containers "closely" fit within the internal chamber.

*Allowable Subject Matter*

9. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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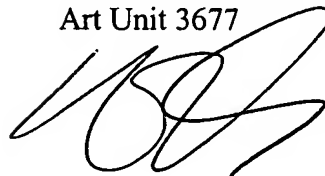
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William L. Miller

Primary Examiner

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A handwritten signature in black ink, appearing to be 'WLM', written over the printed name and title.

WLM

11-10-2004